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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/598,909
Filing Date: September 14, 2006
Appellant(s): Wang et al.

Robert M. Barrett
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/02/2011 appealing from the Office Action mailed 6/29/2011.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments after Final

It doesn't apply here.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

JP 09107880 A	Osanai	4-1997
JP 2003164261 A	Imazawa et al	6-2003

Edenharder et al, Isolation and characterization of structurally novel antimutagenic flavonoids from spinach (Spinacia oleracea), Journal of agricultural and food chemistry, (2001 Jun) Vol. 49, No. 6, pp. 2767-73.

Faulks et al, Kinetic of gastro-intestinal transit and carotenoid absorption and disposal in ileostomy volunteers fed spinach meals, Eur J Nutr (2004) 43: 15-22.

Hovari et al, Examination of flavonoid content in Hungarian Vegetables, Special Publication - Royal Society of Chemistry (1999), 240(Natural Antioxidants and Anticarcinogens in Nutrition, Health and Disease), 296-298.

(9) Grounds of Rejection

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The 112, 2nd rejection.

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-8, 14, 20, and 21 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Osanai (JP 09107880 A), in view of Edenharder et al (Edenharder et al, Isolation and characterization of structurally novel antimutagenic flavonoids from spinach (Spinacia oleracea), Journal of agricultural and food chemistry, (2001 Jun) Vol. 49, No. 6, pp. 2767-73), Faulks et al (Faulks et al, Kinetic of gastro-intestinal transit and carotenoid absorption and disposal in ileostomy volunteers fed spinach meals, Eur J Nutr (2004) 43: 15-22), and Hovari et al (Hovari et al, Examination of flavonoid content in Hungarian Vegetables, Special Publication - Royal Society of Chemistry (1999), 240(Natural Antioxidants and Anticarcinogens in Nutrition, Health and Disease), 296-298), and further in view of Imazawa et al (JP 2003164261 A).

Osanai teaches to produce a suitably producible cow's milk (thus milk from animal origin, thus a carrier) at a low cost by using a widely used vegetable, capable of enriching iron, enhancing hematopoietic actions, further containing various vitamins or minerals blended in good balance and effective against various symptoms of anemia, constipation or climacteric disturbance of women (thus a food, thus an oral composition). This cow's milk contains a vegetable and is obtained by adding about 12.5 g KOMATSU-NA [Brassica campestris (rapa groupl)], about 2.5 g spinach (thus a vegetable, thus a leave), about 2.5 g total amount of mulukkiyya, parsley, water cress and beefsteak plant, 22.5 g lemon (thus a fruit) and 2.5 g reducing palatinose with about 150cc cow's milk. Furthermore, the cow's milk containing the vegetable is prepared by placing about 12.5 g KOMATSU-NA, about 2.5 g spinach and about 2.5 g total amount of mulukkiyya, parsley, water cress and beefsteak plant based on 10 cc cow's

milk in a mixer, pulverizing (thus milling in milk) and mixing the ingredients, adding about 22.5 g lemon and about 2.5 g reducing palatinose thereto and further adding cow's milk thereto so as to make the sum total to 200 cc (thus a liquid, thus a miscible, and dispersible primary composition) (see Abstract). Osanai teaches a method of producing cowsmilk containing vegetables characterized as placing approximately 15 g of carrots, approximately 22.2 g of lemon, and approximately 2 g of reduced palatinose in 100 cc of cowsmilk in a mixer, pulverizing it and mixing it, straining it in a strainer twice (thus excluding insoluble fibers), and then adding cowsmilk to this so that it reaches 200 cc (page 5, claim 6 of the full translation). Osanai also teaches Table 1 indicated the comparative examples. A regulated soymilk is commonly known as "regulated soymilk" (thus a plant-based milk carrier) from company A wherein the soymilk has been regulated (page 18, [0014]).

As evidenced by Edenharder et al, spinach contains carotenoids (thus a lipophilic bioactive component) and flavonoids such as flavonol and flavanone (thus a hydrophilic bioactive component) (see Abstract), therefore, the milk product of Osanai that contains spinach contains at least essential lipophilic and hydrophilic bioactive components consisting of vegetable etc.

As further evidenced by Faulks et al, spinach contains beta-carotene (thus a lipophilic bioactive component) (see Abstract).

As also evidenced by Hovari et al, the highest quercetin concentration could be detected in different types of onion (67.1-171.3 mg/kg) and in spinach (page 296, last paragraph) (thus the limitation of claim 21 is met).

Osanai does not teach the insoluble fibers are removed by centrifuging the carrier after milling.

Imazawa et al teach a method for manufacturing extract and/or squeezed liquid, involves grinding raw material, homogenizing, dispersing in medium at less than 60 degrees C, extracting, emulsifying and removing dregs and/or squeezed dregs. The raw materials are selected from coffee, green tea (thus containing lipophilic and hydrophilic bioactive components), black tea, oolong tea, herb tea, wild grass tea, Chinese medicine tea, cocoa, vanilla, fruits or vegetables. The dispersion medium has low temperature of less than 50 degrees C preferably -5-50 degrees C. The dispersion medium is water, cow's milk (thus a carrier) dairy products, liquid of saccharides, sugar alcohol, mineral, vitamin, stabilizer, emulsifier and bacteriostatic. The mixture is homogenized using homogenous machine (thus milling the material) equipped with pump, which pours dispersion liquid at high voltage and high speed continuously in the homogenous valve (see Abstract). Imazawa et al also teach in accordance with a conventional method, separation removal of extraction slag and/or the juice slag is carried out using a liquid cyclone, a clarifier, centrifugal separation (thus insoluble fibers are removed by centrifuging the carrier after milling), filtration, precision filtration, decantation etc. [0027] (see machine translation attached). Imazawa et al teach the method is suitable for the continuous mass production and extremely effective from the viewpoint of the effective utilization of food resources and the economic merit compared with conventional extraction/squeezing method (see Abstract).

First of all, the MPEP states the following: "[E]ven though product-by-process claims are limited by and defined by the process determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product

in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process...The product-by-process claim was rejected because the end product, in both the prior art and the allowed process, ends up containing metal carboxylate. The fact that the metal carboxylate is not directly added, but is instead produced in-situ does not change the end product" (see MPEP 2113 [R-1]). Therefore, although Osanai teaches using strainers twice, instead of using claimed centrifuging process, insoluble fibers are being removed either way, and the final products are not materially different. Even if there is subtle difference between using strainers and centrifuge machine, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the claimed centrifuging step since Imazawa et al teach removing extraction slag by a liquid cyclone, a clarifier, centrifugal separation, filtration, precision filtration, or decantation. It is evidenced by Imazawa et al that centrifuging step is well known in the art to remove extraction slags, and it is used interchangeably in the art with other methods such as filtration or straining. Since Imazawa et al teach using dispersion medium cowsmilk to grind raw plant material for extraction, and since Imazawa et al teach the method is extremely effective in utilization of food resources and has economic merit compared with conventional extraction/squeezing method, one of the ordinary skills in the art would have been motivated to combine the teachings of the references together.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Claims 1-8, 12-14, and 20-28 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over Osanai, Edenharder et al, Faulks et al, Hovari et al, and Imazawa et al as applied to claims 1-8, 14, 20, and 21 above, and further in view of Hong et al (KR 2003022942 A).

This is a new rejection necessitated by the Applicant's amendment filed on 5/11/2011.

The teachings of Osanai, Edenharder et al, Faulks et al, Hovari et al, and Imazawa et al are set forth above and applied as before.

The combination of Osanai, Edenharder et al, Faulks et al, Hovari et al, and Imazawa et al do not specifically teach a freeze-dried powder; neither the combination explicitly teach using a plant-based milk carrier such as soymilk.

Hong et al teach a process for preparing liquid and powder types of fermented vegetable milk using legumes and rice as main ingredients to improve its preservability and distribution. Hong et al teach the process for preparing liquid type of fermented vegetable milk is characterized by culturing a mixture of soy milk (thus a plant-based milk carrier) and rice milk with bifidobacterium and Lactobacillus sp. strains and fermenting it, wherein the mixing ratio of soy milk to rice milk is 1:10-10:1, the rice milk is obtained by saccharifying polished or unpolished rice or a mixture thereof. The powder type of fermented vegetable milk is manufactured by freeze-drying the prepared liquid type of vegetable milk to minimize the destroying of nutrients (see Abstract).

It would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use freeze-dried powder in the composition in Osanai since Hong et al

teach vegetable milk is manufactured by freeze-drying the prepared liquid type of vegetable milk to minimize the destroy of nutrients. Therefore, one of ordinary skill in the art would have been motivated to use freeze-dried powder in the composition in Osanai to minimize the destroying of nutrients.

It would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use a plant-based milk carrier such as soymilk since Hong et al teach a vegetable milk using legumes and rice as main ingredients to improve its preservability and distribution. In addition, as evidenced by Osanai a "regulated soymilk" (thus a plant-based milk carrier) is well known in the art by the time the invention was made. Therefore, one of ordinary skill in the art would have been motivated to use plant-based milk carrier to improve its preservability and distribution.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

(10) Response to Argument

Appellants argue that *"Osanai, Edenharder, Faulks, Hovari* and *Imazawa* fail to disclose or suggest each and every element of independent Claims 1 and 14. *Osanai, Edenharder, Faulks, Hovari and Imazawa* alone or in combination fail to disclose or suggest a miscible primary composition comprising a milk-based carrier that is stable, miscible and dispersible in an aqueous system as required, in part, by independent Claims 1 and 14. Instead, *Osanai* discloses a

beverage containing cow's milk, rapa gourd, spinach and lemon, among other ingredients. See, *Osanai,* pages 5-6. Appellants argue that "To distinguish the composition of *Osanai* with that of the claimed compositions, Appellants previously submitted a Declaration under 37 C.F.R. §1.132 *("Declaration")* that demonstrates the deficiencies of the prior art with respect to the present claims. A copy of the *Declaration* is attached hereto as Exhibit J". (Paragraph bridging pages 15-16 of Appellants' Brief).

This is not found persuasive. Osanai teaches a method of producing cowsmilk containing vegetables characterized as placing approximately 15 g of carrots, approximately 22.2 g of lemon, and approximately 2 g of reduced palatinose in 100 cc of cowsmilk in a mixer, pulverizing it and mixing it, straining it in a strainer twice (thus excluding insoluble fibers), and then adding cowsmilk to this so that it reaches 200 cc. It is noted that since the vegetables were mixed with milk, pulverized, and strained, thus the vegetables are miscible, stable and dispersible in the aqueous milk system.

Appellants also argue that "As supported by the *Declaration, Osanai* discloses a beverage containing cow's milk, rapa gourd, spinach and lemon, among other ingredients. Each of the embodiments of the beverage disclosed by *Osanai* at least includes approximately 22.5 grams of lemon. Moreover, lemon is an essential aspect of *Osanai's* beverage as it supplies vitamin C in an amount that is not satisfied with the remaining elements of the beverage. See, *Osanai,* paragraph 12" (page 16, 2nd paragraph; page 19, 2nd paragraph; page 25, 2nd paragraph). Appellants further argue that "As supported by the *Declaration,* an experiment was performed to determine the impact of lemon on cow's milk as taught by *Osanai.* The experiment showed that the addition of 22.5 grams of lemon to 100 ml of milk led to a precipitation/coagulation of a

large portion of the milk proteins in the milk causing an obvious lack of miscibility. See, Exhibit A of the *Declaration.* Therefore, upon experimental testing to compare *Osanai's* beverage against the claimed compositions, it is clear that *Osanai* does not provide a miscible primary composition that is stable, miscible and dispersible in an aqueous system" (page 16, 3rd paragraph; page 19, 3rd paragraph; page 25, 3rd paragraph). Appellants at last argue that *"*As supported by the *Declaration,* Appellants have surprisingly found that the milk proteins are essential for the improved extraction of the lipophilic bioactive components according to the claimed invention. The claimed miscible primary compositions comprising a milk-based carrier that is stable, miscible and dispersible in an aqueous system provides the optimal conditions for extracting the most lipophilic bioactive components from plant materials. In contrast, because of the precipitation/coagulation of a large portion of the milk proteins in the beverage of *Osanai,* these precipitated or coagulated proteins are immiscible in solution and are no longer free to extract the lipophilic bioactive components of plant materials. This reduces the effectiveness of the extraction and the amount of the extracted bioactive components that could end up in the beverage. As a result, the miscible primary composition of the claimed invention is a distinguishable product over the immiscible beverage resulting from the components and process of *Osanai*" (page 16, 4th paragraph; page 19, last paragraph; page 25, last paragraph bridging page 26).

The Declaration under 37 CFR 1.132 filed on 5/11/2011 is insufficient to overcome the 103 rejection as set forth in the last Office action because: In Exhibit A, 22.5 g lemon was mixed with 100 ml cow's milk, and extract cow's milk was adjusted to 200 ml, protein precipitate was observed in 10 minutes. However, this has nothing to do with the cited reference

Osanai. First of all, Osanai does not teach a composition comprising only lemon and cow's milk as shown in Exhibit A. Secondly, the Exhibit A in the Declaration does not have the process of "pulverizing it and mixing it, straining it in a strainer twice" as taught by Osanai. Furthermore, the Declaration does not have a negative control, for instance, the claimed composition does not have any precipitation as a comparison.

Appellants argue that "Appellants also respectfully submit that the skilled artisan would have no reason to combine the cited references to arrive at the present claims because the cited references are directed to unrelated products that have completely different objectives. *Osanai* is entirely directed to cow's milk containing vegetables whose main constituent is rapa gourd, wherein the vegetable containing rapa gourd is mixed with cowsmilk. See, *Osanai,* pages 5-6. *Edenharder* is entirely directed to the isolation and characterization of antimutagenic flavonoids from spinach. See, *Edenharder,* Abstract. Indeed, the entire disclosure of *Edenharder* is directed to the purification of antimutagens from spinach by preparative and micropreparative HPLC from a methanol/water extract of dry spinach after removal of lipophilic compounds. *Id.* As such, not only is the subject matter of *Edenharder* nonanalogous art when compared to *Osanai* and the present claims, but *Edenharder* teaches away from the present claims when *Edenharder* discloses removal of lipophilic compounds from the spinach extract" (page 17, 1st paragraph; page 23, 1st paragraph). Appellants also argue that "Similar to *Edenharder, Faulks* is entirely directed to the quantification of beta-carotene and lutein absorption from a representative green vegetable with different degrees of processing, using both mass balance and metabolic modeling of triglyceride-rich lipoprotein plasma fraction. See, *Faulks,* Summary. Like *Edenharder,* the green vegetable *of Faulks* is spinach and the entire disclosure is directed to the kinetics of gastro-

intestinal transit and carotenoid absorption and disposal in ileostomy volunteers fed spinach meals. See, *Faulks,* Summary and Introduction. As such, *Faulks* is also nonanalogous art when compared to *Osanai* and the present claims" (page 17, 2nd paragraph; page 23, 2nd paragraph). Appellants further argue that *"Hovari* is entirely directed to the effects of flavanoids on human health and the content of flavonoids in specific vegetables. See, *Hovari,* Introduction, Table 1. *Imazawa* is entirely directed to extraction efficiency and preparation of juice in a short time for industrialization. See, *Imazawa,* paragraphs 18 and 19. *Imazawa* discloses processes that include pulverizing coffee beans, fruits, vegetables, etc., adding a dispersing media to the pulverized coffee beans, fruits, vegetables, etc., and then homogenizing the mixture. See, *Imazawa,* Working Examples" (page 17, 3rd paragraph; page 23, last paragraph). Appellants at last argue that *"*As such, the cited references are clearly directed to unrelated products or processes that have completely different objectives. Moreover, none of the cited references even recognizes the benefits obtained by the presently claimed compositions including, for example, improved bioavailability and miscibility of from extracted fruits or plant materials by milling the material in a milk or milk protein-containing carrier and centrifuging the milk or milk protein-containing carrier after milling of the fruit or plant materials to remove the insoluble fibers. Such treatments allow the essential lipophilic and hydrophilic bioactive components to have improved bioavailability and miscibility in the milk or milk protein-containing carrier. See, specification, page 4, lines 1-3" (page 17, last paragraph; page 24, 2nd paragraph).

This is not found persuasive. The rejection is based on Osanai in view of Imazaawa, references Edenharder et al, Faulks et al, and Hovari et al are only brought in to show the intrinsic properties of the product in Osanai. Osanai teaches "the cow's milk containing the

vegetable is prepared by placing about 12.5 g KOMATSU-NA, about 2.5 g spinach and about 2.5 g total amount of mulukkiyya, parsley, water cress and beefsteak plant based on 10 cc cow's milk in a mixer, pulverizing (thus milling in milk) and mixing the ingredients" (see Abstract). The process of mixing the claimed ingredient with milk in a mixer, pulverizing, and mixing the ingredient is not materially different from the claimed "milling the material in the milk or milk protein-containing carrier". Although Osanai teaches using strainers twice, instead of using claimed centrifuging process, insoluble fibers are being removed either way, and the final products are not materially different. Even if there is subtle difference between using strainers and centrifuge machine, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the claimed centrifuging step since Imazawa et al teach removing extraction slag by a liquid cyclone, a clarifier, centrifugal separation, filtration, precision filtration, or decantation. It is evidenced by Imazawa et al that centrifuging step is well known in the art to remove extraction slags, and it is used interchangeably in the art with other methods such as filtration or straining. Since Imazawa et al teach using dispersion medium cowsmilk to grind raw plant material for extraction, and since Imazawa et al teach the method is extremely effective in utilization of food resources and has economic merit compared with conventional extraction/squeezing method, one of the ordinary skills in the art would have been motivated to combine the teachings of the references together.

Appellants argue that "Finally, if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there exists no reason for the skilled artisan to make the proposed modification. *In re Gordon,* 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In fact, Appellants submit that what the Patent Office has done here is to

apply hindsight reasoning by attempting to selectively piece together teachings of each of the references in an attempt to recreate what the claimed invention discloses. Indeed, the skilled artisan must have a reason to combine the cited references to arrive at the present claims. Appellants respectfully submit that such a reason is not present in the instant case" (page 18, 2nd paragraph; page 24, 3rd paragraph).

In response to Appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Appellants argue that "One way for a patent applicant to rebut a prima facie case of obviousness is to make a showing of 'unexpected results,' i.e., to show that the claimed invention exhibits some superior property or advantage that a person of ordinary skill in the relevant art would have found surprising or unexpected." *In re Soni,* 54 F.3d 746, 750 (Fed. Cir. 1995). Appellants have surprisingly found that milling the material contained in the milk or milk protein-containing carrier allows for the formation of much smaller particles of ground plant material, allowing more efficient access by the milk or milk protein-containing carrier to both the water-soluble and oil-soluble bioactives of the plant material. Moreover, Appellants have found that the proteins in the milk or milk protein-containing carrier are significant for the increased extraction of the lipophilic and hydrophilic bioactive components from the plant material.

Furthermore, centrifuging the milk or milk protein-containing carrier after milling of the fruit or plant materials removes the insoluble fibers and further provides the claimed composition as a whole to be stable, miscible and dispersible in an aqueous system. See, specification, page 2, lines 22-28 and page 3, lines 6-11" (page 18, last paragraph bridging page 19; page 25, 1st paragraph).

This is not found persuasive. Osanai teaches a method of producing cowsmilk containing vegetables characterized as placing approximately 15 g of carrots, approximately 22.2 g of lemon, and approximately 2 g of reduced palatinose in 100 cc of cowsmilk in a mixer, pulverizing it and mixing it, straining it in a strainer twice (thus excluding insoluble fibers), and then adding cowsmilk to this so that it reaches 200 cc. Therefore, Osanai teaches using the milk or milk protein-containing carrier, and pulverizing all the materials in cowsmilk equals to "milling the material contained in the milk or milk protein containing carrier", thus "allowing more efficient access by the milk or milk protein-containing carrier to both the water-soluble and oil-soluble bioactives of the plant material". It is noted that since the vegetables were mixed with milk, pulverized, and strained, thus the vegetables are miscible, stable and dispersible in the aqueous milk system just as what is being claimed.

Regarding the 2nd 103 rejection, Appellants argue that *"Hong* fails to remedy the deficiencies of *Osanai, Edenharder, Faulks, Hovari,* and *Imazawa* because *Hong* also fails to disclose or suggest a miscible primary composition comprising a milk-based carrier that is stable, miscible and dispersible in an aqueous system as recited, in part, by independent Claims 1, 12, 14 and 22. *Hong* also fails to a freeze-dried, miscible powder comprising essential lipophilic and hydrophilic bioactive components of a material from whole fruit, vegetable material and/or plant

material, excluding insoluble fibers, in a milk or milk protein-containing carrier as recited, in part, by independent Claim 12" (page 22, 2nd paragraph). Appellants also argue that "Although *Hong* discloses a soy oil and rice milk, vegetable-based composition including fermented lactobacillus, the lactobacillus is not an essential lipophilic and hydrophilic bioactive components of a material from whole fruit, vegetable material and/or plant material, excluding insoluble fibers. As such, *Hong* also fails to disclose or suggest the presently claimed miscible primary composition comprising a milk-based carrier that is stable, miscible and dispersible in an aqueous system as recited, in part, by independent Claims 1, 12, 14 and 22" (page 22, 3rd paragraph). Appellants further argue that "Additionally, although *Hong* discloses the freeze-drying of a fermented milk to increase the survival rate of a lactobacillus bacteria, such a powdered fermented milk is not a freeze- dried, miscible powder comprising essential lipophilic and hydrophilic bioactive components of a material from whole fruit, vegetable material and/or plant material, excluding insoluble fibers, in a milk or milk protein-containing carrier as recited, in part, by independent Claim 12. As such, *Hong* fails to remedy the deficiencies of *Osanai, Edenharder, Faulks, Hovari,* and *Imazawa.* As such, the cited references fail to disclose or suggest each and every element of the present claims" (page 22, last paragraph).

This is not found persuasive. Osanai teaches everything but the claimed centrifuging step. Osanai teaches using strainers twice instead of using the claimed centrifuging process. However, insoluble fibers are being removed either way, and the final products are not materially different. Even if there is subtle difference between using strainers and centrifuge machine, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the claimed centrifuging step since Imazawa et al teach removing extraction slag by a liquid

cyclone, a clarifier, centrifugal separation, filtration, precision filtration, or decantation. It is evidenced by Imazawa et al that centrifuging step is well known in the art to remove extraction slags, and it is used interchangeably in the art with other methods such as filtration or straining. Since Imazawa et al teach using dispersion medium cowsmilk to grind raw plant material for extraction, and since Imazawa et al teach the method is extremely effective in utilization of food resources and has economic merit compared with conventional extraction/squeezing method, one of the ordinary skills in the art would have been motivated to combine the teachings of the references together.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Qiuwen Mi/

Primary Examiner, Art Unit 1655

September 26, 2011

Conferees:

/Terry A McKelvey/

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